IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 6768 of 2005

RUGHA RAM
V/S
A.C.J.M.COURT SOJAT,DISTT.PALI & ORS.

Mr. RAKESH RAMAWAT, for the appellant / petitioner

Mr. LR UPADHYAY, for the respondent

Date of Order : 18.1.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order, the learned trial Court has dismissed the petitioner's application for amendment of the written-statement holding that allowing the amendment would change the very cause of action and the nature of the suit. The amendment prayed for is that the petitioner wants installation of energy connection on the well situated on Khasra No.903, for which he has already applied, and connection was sanctioned to be installed on Khasra No.904. The contention of the petitioner was that since the well situated in Khasra No.904, the water level had gone down, therefore, now he wants the connection to be installed at Khasra No.903.

Learned counsel for the respondent submits that Khasra No.903 and 904 are both joint properties of both the parties.

In view of the above, if the petitioner wants the connection to be shifted on well situated in Khasra No.903 instead of Khasra No.904, it cannot be said that by seeking amendment of the plaint, the nature of the suit would be changed, or the cause of action would be changed. I may make it clear that I am not adjudicating upon the rights of the petitioner to get connection on the well either situated at Khasra No.903 or 904.

Consequently, the writ petition is allowed. The impugned order is set aside, and the petitioner's application for amendment of the plaint is allowed subject to payment of Cost of Rs.1000/-. The trial Court is directed to expeditiously decide the main suit. Both the learned counsel assured that they will extend their full cooperation in expeditious disposal of the suit.

(N P GUPTA),J.

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